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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/563,735	09/18/2006	David John Michael Gibson	0074-536311	1198

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DANN, DORFMAN, HERRELL & SKILLMAN
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EXAMINER

SWIATEK, ROBERT P

ART UNIT	PAPER NUMBER
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3643

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PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/563,735	Applicant(s) GIBSON, DAVID JOHN MICHAEL	
	Examiner Rob Swiatek	Art Unit 3643	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 06 January 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-47 and 51-53 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 43-47 and 51-53 is/are allowed.
- 6) ☒ Claim(s) 1, 2, 6, 7, 18, 20, 38, 39 and 41 is/are rejected.
- 7) ☒ Claim(s) 3-5, 8-17, 19, 21-37, 40 and 42 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>9-18-2006</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1, 2, 18, 20, 39, 41 are rejected under 35 U.S.C. 102(b) as being anticipated by Jespersen (WO 93/02634: Ref. cited on IDS filed 18 September 2006). The reference to Jespersen discloses **an apparatus for positioning an item in or near a natural orifice of a non-human animal, comprising: at least one resilient rod (3, Figure 1 of Jespersen) having a first portion (forward portion of 3 toward the front of the animal in Figure 1) adapted to the shape of part of the animal's body spaced from the orifice and a second portion (rearward portion of 3 to which holder 2 is attached) adapted to extend to or beyond the part of the animal's body in the region of the orifice; an anchoring arrangement (4, Figure 1) to anchor the rod (s) to said part of the animal's body spaced from the orifice; and a transverse cross member (5, Figure 1), which cross member is adapted in use to be biased into contact with the animal's body in the region of the natural orifice as a result of the resilience of the rod (s).** Cross member 5 of Jespersen is considered to be "in the region of" and "near" (both relative expressions) the rearward natural orifice of the sow. As to claim 39, the cross member 5 of Jespersen is deemed to be "connectable"—i.e., *able to be connected*—to a saddle-type arrangement on the sow's back, although admittedly one isn't shown.

Art Unit: 3643

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claim 38 is rejected under 35 U.S.C. 103(a) as being unpatentable over Jespersen in view of Goeckner (US 6,116,193). While the anchoring arrangement 4 of Jespersen does not include a harness member, it would have been obvious to one skilled in the art to employ the strap 14 of Goeckner with the anchoring arrangement 4 of Jespersen in order to predictably hold the anchoring arrangement more securely to the animal.

Claims 1, 2, 6, 7 are rejected under 35 U.S.C. 102(b) as being anticipated by Cole (US 5,566,645). The Cole patent discloses **an apparatus for positioning an item in or near a natural orifice of a non-human animal, comprising: at least one resilient rod** (side members 81, 82 in Figure 9 of Cole) **having a first portion** (that section of a side member overlain by reference numeral 83 in Figure 9 of Cole) **adapted to the shape of part of the animal's body spaced from the orifice and a second portion** (that portion of a side member to the right of bit 80 in Figure 9) **adapted to extend to or beyond the part of the animal's body in the region of the orifice; an anchoring arrangement** (headstall 13 of Cole attached to the side members) **to anchor the rod (s) to said part of the animal's body spaced from the orifice; and a transverse cross member** (bit 80 of Cole), **which cross member is adapted in use to be biased into contact with the animal's body in the region of the natural orifice as a result of the resilience of the rod (s)** (pulling on the reins 62 would act through the resilience of the side

Art Unit: 3643

members to cause the bit to be in biased contact with the interior of the horse's mouth). As to claims 6, 7, elements 58, 59, 85, 86 of Cole cooperate to dispense fluid into the horse's mouth.

Claims 1-42, 46 are objected to because of the following informalities: In claim 1, lines 5, 8, and numerous dependent claims, each occurrence of the expression "rod(s)" should be changed to –at least one rod–. Throughout the claims, verbs used in conjunction with the expression *the at least one rod* should be singular (e.g., in claim 2, line 1, "has/have" should be changed to –has–). In claim 2, line 2, "it/they" should be changed to –it–; in claim 10, line 2, "substance(s)" should be changed to –substance–; in claim 15, line 4, "substance(s)" should be changed to –at least one substance–; in claim 29, line 3, "end(s) of the rod(s)" should be changed to –end of the at least one rod–; in claim 30, line 3, "substance(s)" should be changed –substances–; in claim 39, line 2, "portion(s) of the rod(s) is/are" should be changed to –portion of the at least one rod is–; in claim 46, line 3, "substance(s)" should be changed to –one or more substances–.

Appropriate correction is required.

Claims 3-5, 8-17, 19, 21-37, 40, 42 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Art Unit: 3643

The patents to Ryan (US 976,303), Vanorio Jr. (US 2,136,032), and Hill (US 3,837,142) have been cited to provide additional examples of animal harness devices.

/Rob Swiatek/

Primary Examiner, Art Unit 3643

Ph.: 571/272-6894

28 September 2009